

**BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO**

In the Matter of the Protest of	)	
	)	DOCKET NO. 19526
[REDACTED]	)	
	)	DECISION
Taxpayer.	)	
	)	
	)	
	)	

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On May 22, 2006, the staff of the Sales, Use, and Miscellaneous Tax Audit Bureau (Bureau) of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination [Redacted] (taxpayer), proposing use tax, penalty, and interest for the period April 1, 2003, through April 30, 2003, in the total amount of \$2,737.

On July 21, 2006, the Commission received a timely appeal and petition for redetermination, dated July 17, 2006. The Commission sent a hearing rights letter to the taxpayer on August 11, 2006, and the taxpayer did not respond to the letter.

The sole issue in this Decision is the taxpayer's tax-exempt purchase of a skid-steer unit and backhoe attachments in April, 2003. The taxpayer provided the vendor with a certificate claiming farming and ranching sales tax exemptions and [Redacted]. Use of this certificate is standard for buyers who wish to claim an exemption from sales tax. The purpose of the audit was to verify the exemption claimed.

According to the taxpayer's protest letter received July 21, 2006, [Redacted]. The auditor inquired about the taxpayer's revenue for the year of purchase and verified that the only revenue reported on the corporate income tax return was from the lease of land to a party that grazed the land. (There is a landlord-tenant contract dated March 15, 2003.) There was no revenue from the sale of crops or cattle, and the auditor denied the exemption because the equipment was presumed to be used for improving the land but not to operate a farm or ranch.

As noted, there is a tax exemption available on certain purchases related to farming operations. Farming is defined in the Idaho Code as follows:

**FARMING.** -- The terms "farm" and "farming" refer to and mean the business of operating for gain or profit a ranch or farm and include stock, dairy, poultry, fish, fur, fruit and truck farms, ranches, ranges and orchards, and custom farming (Idaho Code § 63-3603.)

The available exemption is elaborated upon in the following relevant excerpt of the Idaho Code.

**PRODUCTION EXEMPTION.** -- There are exempted from the taxes imposed by this chapter:

(a) The sale at retail, storage, use or other consumption in this state of:

.....

(2) Tangible personal property primarily and directly used or consumed in or during a manufacturing, processing, mining, farming, or fabricating operation, including, but not limited to, repair parts, lubricants, hydraulic oil, and coolants, which become a component part of such tangible personal property; provided that the use or consumption of such tangible personal property is necessary or essential to the performance of such operation.....

(d) As used in this section, the term "directly used or consumed in or during" a farming operation means the performance of a function reasonably necessary to the operation of the total farming business, including, the planting, growing, harvesting and initial storage of crops and other agricultural products and movement of crops and produce from the place of harvest to the place of initial storage (Idaho Code § 63-3622D.)

Based on the available evidence and the code sections cited above, the Commission does not believe that the taxpayer's purchases qualify for farming or ranching exemptions.

The Commission next considers the following from the tax code:

The exemptions allowed in subsections (a)(1), (a)(2), (a)(3) and (a)(4) of this section shall also be available to a business, or separately operated segment of a business, engaged in farming or mining, whether as a subcontractor, contractor, contractee or subcontractee, when such business or segment of a business is primarily devoted to producing tangible personal property which is intended for ultimate sale at retail within or without this state,

without regard to the ownership of the product being produced.  
(Idaho Code § 63-3622D(c))

While the tenant is undoubtedly using grazing rights to produce tangible personal property for ultimate sale (i.e., beef, presumably), the landlord (i.e., taxpayer) is not acting in a subsidiary contractor role with his own land. Therefore, the taxpayer does not qualify for the exemption provided for in this section.

In sum, the taxpayer does not sell crops or cattle and is not engaged in the business of farming or ranching, either of which would justify the exemption.

The taxpayer has not provided the Commission with information to establish that the amount asserted in the Notice of Deficiency Determination is incorrect. As a result, the Commission will uphold the tax deficiency notice for the period April 1, 2003, through April 30, 2003. A determination of the State Tax Commission is presumed to be correct (*Albertson's, Inc. v. State, Dept. of Revenue*, 106 Idaho 810, 814, 683 P.2d 846, 850 (1984)), and the burden is on the taxpayer to show that the deficiency is erroneous (*Parsons v. Idaho State Tax Commission*, 110 Idaho 572, 574-575 n.2 (Ct. App. 1986)).

Absent information to the contrary, the Commission finds the deficiency prepared by the Bureau to be a reasonably accurate representation of the taxpayer's use tax liability for the period April 1, 2003, through April 30, 2003.

The Bureau added interest to the use tax deficiency, and this has been updated to February 23, 2007. The Commission reviewed this addition and found it to be appropriate per Idaho Code § 63-3045.

WHEREFORE, the Notice of Deficiency Determination dated May 22, 2006, is APPROVED, AFFIRMED, and MADE FINAL for the amounts shown below.

<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
\$1,908	\$477	\$ 419	\$2,804

DEMAND for immediate payment of the foregoing amount is hereby made and given.

An explanation of the taxpayer's right to appeal this decision is included with this decision.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2006.

IDAHO STATE TAX COMMISSION

\_\_\_\_\_  
COMMISSIONER

# **CERTIFICATE OF SERVICE**

I hereby certify that on this \_\_\_\_\_ day of \_\_\_\_\_, 2006, a copy of the within and foregoing DECISION was served by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[REDACTED]  
[REDACTED]  
[REDACTED]

Receipt No.

\_\_\_\_\_